

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
CITY COUNCIL CHAMBERS
February 24, 2009**

1. Present

Commissioners:

Sherwood Bishop, Chair
Ryan Thomason, Vice-Chair
Bill De Soto
Bill Taylor
Curtis Seebeck
Allen Shy
Cecil Pounds
Jim Stark
Randy Bryan (absent)

City Staff:

Chuck Swallow, Director of Development Services
Francis Serna, Recording Secretary
John Foreman, Planner

2. Call to Order and Announce a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Bishop at 6:00 p.m. on Tuesday February 24, 2009 in the Council Chambers of the City of San Marcos City Hall, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Bishop welcomed the audience and the television viewers.

4. Executive Session

There were no discussions.

5. Citizen Comment Period

There were no citizen comments.

6. CUP-09-01. Hold a public hearing and consider a request by Julie Balkman, on behalf of Wake the Dead, for a renewal of a Conditional Use Permit to allow the on-premise consumption of beer and wine at an establishment located at 1432 Ranch Road 12.

John Foreman advised the Commission that applicant has proposed to begin amplified music. The Police Department has expressed concerns regarding amplified music due to the surrounding single family residences. Mr. Foreman explained that the applicant has submitted proposed renovation layout of the restaurant. Staff also has concerns with outdoor amplified music. He pointed out that Ms. Balkman has received letters in support of the request from surrounding property owners. Staff recommended approval of music indoors and not outdoors. In addition, staff agrees to the patio location and suggests the CUP be valid for 1 year period due to the addition of live music and conditional upon outdoor music to end at 10:00 p.m.

Chair Bishop opened the public hearing.

Julie Balkman, 108 Riviera, owner of Wake the Dead, stated that she has requested the renewal of TABC license and that all the workers are TAB certified. She explained the proposed expansion to the business. She added that all the neighbors have her phone number to use in case of issues. Ms. Balkman stated that she has been responsible and would like to get her renewal.

Jane Millegan stated that Ms. Balkman has been a very good neighbor and felt that outdoor music can be tested with sound meters. She felt that there would not be an issue with the live music. Ms. Millegan mentioned that the live music would be a good addition to the entertainment part of San Marcos.

Andrew Hartsog, resident of San Marcos all his life, a Teacher at Wonder Land School and is a children's musician. Mr. Hartsog stated that he can play children's music and children are his target demographic. He felt the business is a family venue and a nice venue for him. Mr. Hartsog added that the business is not a loud place and felt that it would not be a disturbance to the neighbors. There were no additional citizen comments and the public hearing was closed.

Commissioner Taylor referred to the letter Ms. Balkman distributed to the surrounding neighbors and inquired if any negative comments have been received by neighbors.

Julie Balkman advised that she has not received any negative comments.

Commissioner Shy asked if any letters were sent to residents on Franklin Street. He added that he was concerned with noise for the residence on Franklin and suggested the end time be changed sooner than 10:00 p.m.

Julie Balkman stated that there was one neighbor on Franklin that was notified.

Commissioner Taylor asked where the speakers would be located and which direction they would be oriented.

Julie Balkman advised that the stage would be behind Sac N Pac and closest to Ranch Road 12.

Commissioner Pounds asked Ms. Balkman why she chose to end live music at 10:00 p.m.

Julie Balkman wished to have evening music but doesn't need music until 10:00 p.m., but would like it available. Ms. Balkman added that she does not have a problem with ending outdoor music at 9:00 pm. She stated that if she is causing problems for neighbors that she would adjust the times accordingly.

Commissioner Stark visited the business and stated that there was a lot of noise with Ranch Road 12. He felt that there would not be a concern with the amplified music.

Chair Bishop asked if music could end at 9:00 Sunday- Thursday and 10:00 p.m. on Friday and Saturday.

Julie Balkman advised she would agree to end the amplified music at 9:00 p.m.

Chair Bishop also visited the business and commented how beautiful the business is and family oriented.

Commissioner Pounds commented that the business is a good establishment and asked Ms. Balkman to be aware of her neighbors.

Commissioner DeSoto stated the business is a nice neighborhood amenity but added that he was concerned for the neighbors.

MOTION: Upon a motion made by Commissioner Taylor and a second by Commissioner Seebeck the Commission voted six (6) for and two (2) opposed, to approve CUP-09-01 for a period of one year; subject to the point system; the applicant comply with all applicable codes of the City, in particular the Land Development Code, building codes, fire codes, and environmental health codes, and noise standards; no drums shall be allowed; outdoor music shall end at 9:00 p.m.; and speakers shall be directed away from single family residences. The motion carried. Commissioner Bryan was absent.

7. CUP-09-02. Hold a public hearing and consider a request by Aquarena Plaza, LLC for a new Conditional Use Permit to allow the use of metal as an exterior building material at a proposed commercial center located at 1504 Aquarena Springs.

John Foreman advised the Commission that the applicant has requested to use metal on the façade of a proposed commercial center. The façade will consist of a stone base, glass store fronts and stucco walls. Mr. Foreman further explained that the applicant has proposed to use galvanized metal panels on the accent towers located at the corner of each building. In addition, metal canopies are proposed over the windows. Staff recommended approval of the request with the condition that the metal panels shall be limited to the towers and canopies.

Chair Bishop opened the public hearing. Darrell David, 778 Oak Glen, New Braunfels, Texas, stated he was representing the applicant. He explained that they are trying to capture a hill country look and want to contribute to the gateway of City. Mr. David stated that he was available to answer questions. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Pounds the Commission voted eight (8) for and zero (0) opposed, to approve CUP-09-02 to allow metal façade at Aquarena Plaza at 1504 Aquarena Springs Dr., with the condition that the metal panels shall be limited to the towers and canopies. The motion carried unanimously. Commissioner Bryan was absent.

8. CUP-09-03. Hold a public hearing and consider a request by Craig Coleman, on behalf of Eskimo Hut for a new Conditional Use Permit to allow the on-premise consumption of beer and wine at a proposed establishment located at 216 Edward Gary.

John Foreman explained that the applicant has proposed to move the business to a new location. Mr. Foreman gave a brief overview of the staff report. He added that existing drive thru at the business is in use an existing non-conforming use and currently does not meet the stacking requirements. Mr. Foreman advised the Commission that the applicant has indicated that he will make renovations to have three full stacking spaces. He mentioned that there were previous sign issues at the current location. He recommended that the sign issues be addressed. Staff recommended that the Conditional Use Permit be valid for one (1) year, provided standards are met, subject to the point system; all signage must conform to the standards in 6.3 and be permitted, and the applicant shall acquire all required construction permits.

Chair Bishop opened the public hearing. Craig Coleman, 420 University Drive and owner of Eskimo Hut stated that he has been in business for 5 years and has not had any issues. He mentioned that he has plans to do the same business at new location. Mr. Coleman stated he was available to answer questions. There were no additional citizen comments and the public hearing was closed.

The Commission briefly discussed the request and noted that there have not been any issues with the current location and spoke in support of approving the CUP for three (3) years. In addition, the sign issue was addressed and Mr. Coleman advised that he would continue to comply with the sign regulations.

MOTION: Upon a motion made by Commissioner Shy and a second by Commissioner Thomason the Commission voted eight (8) for and none (0) opposed, to approve CUP-09-03 for three (3) years, provided standards are met, subject to the point system; all signage must conform to the standards in 6.3 and be permitted; and the applicant shall acquire all required construction permits. Commissioner Bryan was absent.

9. Planning Director's Report

Chuck Swallow commented that staff would review the use of metal materials and determine if they can be included in the Land Development Code Amendments.

Commissioners' Report

There were no reports.

10. Consider approval of the minutes from the Regular Meeting of February 10, 2009.


MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Thomason, the Commission voted seven (7) for, zero (0) opposed and one (1) abstained, to approve the Regular Meeting Minutes of February 10, 2009 with corrections. The motion carried unanimously. Commissioner Bryan was absent.

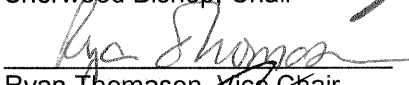
11. Questions and answers from the Press and Public.

There were no questions from the press and public.

12. Adjournment

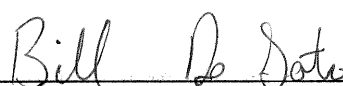
MOTION: Upon a motion made by Commissioner Seebeck and second by Commissioner Thomason, the Commission voted eight (8) for and none (0) opposed, to adjourn the regular meeting of the Planning and Zoning Commission at 6:36 p.m. on Tuesday, February 24, 2009. The motion carried unanimously.


Sherwood Bishop, Chair


Ryan Thomason, Vice Chair


Cecil Founds, Commissioner


Curtis Seebeck, Commissioner



Bill DeSoto, Commissioner


Bill Taylor, Commissioner


Jim Stark, Commissioner


Allen Shy, Commissioner

ATTEST:


Francis Serna, Recording Secretary